



**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET
STATE PLANNING COORDINATION**

July 29, 2008

Mr. Randy Duplechain
Davis, Bowen & Friedel
23 North Walnut Street
Milford, DE 1 9963

RE: PLUS review – 2008-06-05; NKS Distributors

Dear Mr. Duplechain:

Thank you for meeting with State agency planners on June 23, 2008 to discuss the proposed plans for the NKS Distributing property located on the northwest corner of Route 1 and N.E. Front Street.

According to the information received, you are seeking site plan approval through the City of Milford for an 84,852 sq. ft. distribution center.

The PLUS application and the data table on the site plan incorrectly indicate that both parcels that make up this project are owned by N.K.S. Distributors. N.K.S Distributors owns parcel MD 16-174.00-02-08.00. Parcel MD 16-174.00-02-09.00 is owned by the State of Delaware under the custody of the Delaware Department of Transportation. Parcel MD 16-174.00-02-09.00 will be leased to the applicant by the Delaware Department of Transportation to enable the completion of this development project.¹

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property.

¹ A map on the site plan identifies the two parcels as MD-00-174.00-02-57.01 (NKS) and MD-00-174.02-50.00 (State of Delaware). These were the parcel numbers in effect prior to annexation into the City of Milford. Both parcels were annexed into the City in March of 2008.

We also note that as the City of Milford is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

Executive Summary

The following section includes some site specific highlights from the agency comments found in this letter. This summary is provided for your convenience and reference. The full text of this letter represents the official state response to this project. ***Our office notes that the applicants are responsible for reading and responding to this letter and all comments contained within it in their entirety.***

State Strategies/Project Location

- A portion of this parcel is in Investment Level 2, and the remainder is in “out of play” according to the Strategies for State Policies and Spending. The “out of play” portion is owned by DelDOT. It is the intention of DelDOT to lease their portion to the applicant to enable this land development project, and as such our office has no objections to this proposal.

Street Design and Transportation

- The plan provided with the PLUS application does not provide dimensions for the right-of-way of Northeast Front Street. Because this road is classified as a collector road, DelDOT will require the applicant to dedicate sufficient land to provide 40 feet of right-of-way from the centerline if the existing right-of-way is not that wide.
- As part of their draft Comprehensive Plan, the City of Milford is including a service road that will extend from Northeast Front Street, cross Northeast Tenth Street, loop behind Milford High School and provide a new connection at US Route 113, opposite Northwest Eleventh Street. This road would extend through the McColley property (Tax Parcel MD-00-174.00-02-51.00) on or near the west edge of the subject land and a future connection to it will be required.
- While DelDOT does not require a traffic impact study for this development, they may require improvements to Northeast Front Street between the site entrance and Delaware Route 1 and to the southbound right turn lane and northbound left turn lane on Route 1 at Northeast Front Street as part of the entrance construction.

Natural and Cultural Resources

- The Groundwater Protection Branch of DNREC recommends Pretreatment of parking area runoff to remove chemical and nutrient loads before entering the stormwater pond or the relocation of the stormwater pond outside the excellent recharge area
- A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site.

This office has received the following comments from State agencies:

Office of State Planning Coordination – Contact: David Edgell 739-3090

A portion of this parcel is identified as Investment Level 2 according to the *Strategies for State Policies and Spending*. This site is also located in the City of Milford. Investment Level 2 reflects areas where growth is anticipated by local, county, and State plans in the near term future. State investments will support growth in these areas.

The majority of this parcel is identified as “Out of Play” according to the *Strategies for State Policies and Spending*. This designation is due to the fact that the parcel was owned by DelDOT at the time the *Strategies* were drafted, and as such this parcel was not considered “in play” for private development. DelDOT intends to lease this parcel to NKS to enable this land development project, and as such our office has no objections to this proposal.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) The plan provided with the PLUS application does not provide dimensions for the right-of-way of Northeast Front Street. Because this road is classified as a collector road, DelDOT will require the applicant to dedicate sufficient land to provide 40 feet of right-of-way from the centerline if the existing right-of-way is not that wide.
- 2) As part of their draft Comprehensive Plan, the City of Milford is including a service road that will extend from Northeast Front Street, cross Northeast Tenth Street, loop behind Milford High School and provide a new connection at US Route 113, opposite Northwest Eleventh Street. This road would extend through the McColley property (Tax Parcel MD-00-174.00-02-51.00) on or near the west edge of the subject land and a future connection to it will be required.

- 3) DelDOT's long-term plans for Northeast Front Street include a bridge over Delaware Route 1. We have not begun the design of the bridge and therefore cannot address the right-of-way requirements that might be associated with it. However, it may be prudent for the applicant's engineer to estimate those requirements in locating and designing the storm water management areas so that they will not be affected. When the grade separation occurs, the Front Street access will be eliminated and will occur via the service road. For assistance in estimating the right-of-way requirements, the applicant's engineer may contact Mr. Charles Altevogt of this office. Mr. Altevogt may be reached at (302) 760-2124.
- 4) The PLUS application mentions a potential connection to the lands of the Silicato-Wood Partnership, LLC. The Partnership has development plans which would include a connection to Delaware Route 1 near the applicant's property line. While we see potential benefits in such a connection, careful design and phasing to the development of the service road mentioned in Item 2 above will be needed to avoid both congestion that could affect Route 1 and cut-through traffic through the applicant's parking lot. DelDOT is willing to work with you and with the Partnership in these regards.
- 5) While DelDOT does not require a traffic impact study for this development, they may require improvements to Northeast Front Street between the site entrance and Delaware Route 1 and to the southbound right turn lane and northbound left turn lane on Route 1 at Northeast Front Street as part of the entrance construction. To discuss these improvements and other matters relating to the site entrance, the applicant's site engineer should contact the DelDOT project manager for Kent County, Mr. Brad Herb of Johnson, Mirmiran and Thompson. Mr. Herb may be reached at (302) 266-9600.

The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071

Soils

According to the Kent County soil survey, Fort Mott, Ingleside, and Galestown were mapped in the immediate vicinity of the proposed construction. Fort Mott and Ingleside are well-drained upland soils that, generally, have few limitations for development. Galestown is a somewhat excessively well-drained uplands soil that has moderate limitations because of rapid permeability.

Impervious Cover

It was not clear from information presented in the PLUS application form whether the calculated figure for surface imperviousness reflect the actual amount post-construction surface imperviousness. This figure is an important variable to gauge environmental impacts from water and pollutant runoff. The applicant should be made aware that all forms of constructed surface imperviousness (i.e., rooftops, sidewalks, roads and open-water stormwater management structures) should be included in the impervious surface calculation; otherwise, an inaccurate assessment of this project's true environmental impacts will result.

Since commercial development significantly increases the amount of impervious cover, leading to large volumes of contaminant-laden runoff which ultimately drain into streams or waterways, the applicant is strongly urged to pursue both natural and constructed Best Management Practices (BMPs) to reduce such impacts. Reducing the amount of impervious surfaces by retaining/planting more trees and/or the use of pervious paving surfaces ("pavers") in lieu of asphalt or concrete are examples of ways to reduce such impacts.

TMDLs

Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been promulgated through regulation for the Mispillion watershed. A TMDL is the maximum level of pollution allowed for a given pollutant below which a "water quality limited water body" can assimilate and still meet water quality standards to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. Although TMDLs are required by federal law, states are charged with developing and implementing standards to support these desired use goals. In the Mispillion watershed, "target-rate-nutrient reductions" of 57 percent will be required for nitrogen and phosphorus. Additionally, "target-rate-reductions" of 87 percent will be required for bacteria.

TMDL Compliance through the PCS

As indicated above, TMDLs for nitrogen and phosphorus have been proposed for the Mispillion watershed. The TMDL calls for a 57 percent reduction in nitrogen and phosphorus from baseline conditions. The TMDL also calls for an 87 percent reduction in bacteria from baseline conditions. A Pollution Control Strategy (PCS) will be used as a regulatory framework to ensure that these nutrient reduction targets are attained. The Department has developed an assessment tool to evaluate how your proposed development may reduce nutrients to meet the TMDL requirements. Additional nutrient reductions may be possible through the implementation of BMPs such as increasing the

amount of passive, wooded open space (planted with native woody and herbaceous vegetation), use of pervious paving materials to reduce surface imperviousness, and the deployment of green-technology stormwater management treatment technologies. Contact Lyle Jones at 302-739-9939 for more information on the assessment tool.

Water Resource Protection Areas

The Ground Water Protection Branch (GWPB) has determined that the project falls within an excellent ground-water recharge area for the City of Milford (see following map and attached map). The site plan shows a stormwater management pond in the area of excellent recharge.

Excellent Ground-Water Recharge Areas are those areas mapped by the Delaware Geological Survey where the first 20 feet of subsurface soils and geologic materials are exceptionally sandy. These soils are able to transmit water very quickly from the land surface to the water table. This map category (excellent) is an indicator of how fast contaminants will move and how much water may become contaminated (Andres, 2004). Land use activities or impervious cover on areas of excellent ground-water recharge potential may adversely affect ground water in these areas.

The City of Milford adopted Water Resource Protection Areas Ordinance No. 2008-2 on March 24, 2008. Section 2, §230-19.2 (7) b. 1 states that there are no requirements for development to occur provided the impervious cover of that portion of the parcel with the excellent recharge area is thirty-five (35) percent or less. The proposed development would change the impervious cover within the portion of the parcel within the excellent recharge area from zero (0) percent to approximately twenty-nine (29) percent. This amount of impervious cover is acceptable under the City's ordinance.

A large percentage of the impervious cover is for parking and a roadway; the remaining area is a stormwater management pond. The land use of roadway and parking potentially produces petroleum hydrocarbons, other organics, metals, and other inorganics (DNREC, 1999). These contaminants associated with this land use could easily infiltrate the unconfined aquifer via the stormwater pond and compromise water quality.

City of Milford Ordinance No. 2008-2, Section 2, §230-19.2 (7) b. 4 requires that runoff from an area that may contain contaminants from mechanical systems shall be segregated and treated prior to discharge. Accepting that vehicles are mechanical systems, the runoff to the stormwater pond would require pretreatment.

GWPB recommends:

- Pretreatment of parking area runoff to remove chemical and nutrient loads before entering the stormwater pond

OR

- Relocate the stormwater pond outside the excellent recharge area

In addition, because the excellent ground water recharge area can so quickly affect the underlying aquifer if contaminants are spilled or discharged across the area, the storage of hazardous substances or wastes should not be allowed within the area unless specific approval is obtained from the relevant state, federal, or local program.

References

Andres, A. Scott, 1991, Methodology for Mapping Ground-Water Recharge Areas in Delaware's Coastal Plain: Delaware Geological Survey Open File Report No. 34, p. 18.

Delaware Department of Natural Resources and Environmental Control. (1999). The State of Delaware Source Water Assessment Plan: Dover, DE, p. 301.

<http://www.wr.udel.edu/swaphome/publications.html>

NKS Distributors (PLUS 2008-06-05) Excellent ground-water recharge potential area is highlighted in green. The site plan overlies the parcel under review.



Water Supply

The information provided indicates that the City of Milford will provide water to the proposed project through a public water system. Our files reflect that the City of Milford does not currently hold a certificate of public convenience and necessity (CPCN) to provide public water in this area. The City will need to file an application for a CPCN with the Public Service Commission, if they have not done so already. Information on CPCN requirements and applications can be obtained by contacting the Public Service Commission at 302-736-7547. Should an on-site public well be needed, it must be located at least 150 feet from the outermost boundaries of the project. The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing any wells.

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-9944.

Sediment and Erosion Control/Stormwater Management

- A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. Contact the reviewing agency to schedule a pre-application meeting to discuss the sediment and erosion control and stormwater management components of the plan as soon as practicable. The site topography, soils mapping, pre- and post-development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion. The plan review and approval as well as construction inspection will be coordinated through the Kent Conservation District. Contact Jared Adkins, Program Manager, at the Kent Conservation District at (302) 741-2600, ext. 3 for details regarding submittal requirements and fees.
- Information presented by the developer and DelDOT at the PLUS meeting indicates the need for a meeting to develop a sub-regional level stormwater plan for this area. Please include DelDOT, the City of Milford, the Milford School District, DNREC Water Resources, and the developers of the parcels to the north of this site at the meeting.
- Because of the parcel's location in an impaired watershed and the amount of impervious surface, green technology BMPs and low impact development practices should be considered a priority to reduce stormwater flow and to meet water quality goals. At the very least, we recommend a planted buffer (with native vegetation) from all ditches associated with stormwater management and drainage.

Drainage

- The Drainage Program requests that the engineer take precautions to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water. The Drainage Program requests that the engineer check existing downstream ditches and pipes for function and blockages prior to the construction. Notify downstream landowners of the change in volume of water released on them.

Forested Habitat Preservation

Cumulative forest and wildlife habitat loss throughout the State is of utmost concern to the Division of Fish and Wildlife which is responsible for conserving and managing the State's wildlife (see www.fw.delaware.gov and the Delaware Code, Title 7). Because of an overall lack of habitat protection, we have to rely on applicants and/or the entity that approves the project (i.e., counties and municipalities) to consider implementing measures that will aide in habitat loss reduction.

The forest loss being proposed is relatively small but cumulative impacts are still a concern. There are a few measures that could minimize impacts to wildlife.

Recommendations:

1. Efforts could be made to explore alternative configurations of the distribution center and alternative methods of stormwater management (that do not require tree clearing) so that the overall footprint in the forested area is reduced.
2. To minimize impacts to birds and other wildlife that utilize forested areas for breeding, we recommend that tree clearing not occur April 1st to July 31st. This recommendation would only protect those species for one breeding season; once the trees are cleared, there is an overall loss of habitat.

Nuisance Waterfowl

Wet ponds created for stormwater management purposes may attract resident Canada geese and mute swans that will create a nuisance. High concentrations of waterfowl in ponds create water-quality problems, leave droppings on lawn and paved areas and can become aggressive during the nesting season. Short manicured lawns around ponds provide an attractive habitat for these species.

The Division of Fish and Wildlife does not provide goose control services, and if problems arise, the property owner/land manager will have to accept the burden of

dealing with these species (e.g., permit applications, costs, securing services of certified wildlife professionals). Solutions can be costly and labor intensive; however, with proper landscaping, monitoring, and other techniques, geese problems can be minimized.

Recommendation: Exclusion is one of the most effective methods at deterring geese. In a commercial setting such as this project, completely fencing the pond at the edge (even one foot high) may be feasible. Even though geese can fly over the fence, if they constantly have to fly between land and water the area is less desirable. If fencing is not a desired option, we recommend native plantings, including tall grasses, wildflowers, shrubs, and trees at the edge and within an adequate buffer (15-30 feet in width) around the ponds. When the view of the surrounding area from the pond is blocked, geese can't scan for predators and are less likely to reside and nest in the area of the pond. The vegetation also blocks the ability to easily move between land and water.

At this time, we do not recommend using monofilament grids due to the potential for birds and other wildlife to become entangled if the grids are not properly installed and maintained. In addition, the on-going maintenance (removing entangled trash, etc.) may become a burden to the property owner/land manager.

Underground Storage Tanks

There are three (3) inactive LUST sites located near the proposed project:

Atlantic Concrete
Facility #: 1-000446
Project #: K0512115

Atlantic Concrete
Facility #: 1-000446
Project #: K0606070

Atlantic Concrete Company
Facility #: 1-000446
Project #: K9601020

No environmental impact is expected from the above inactive/active LUST site(s). However, should any underground storage tanks or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that construction specifications would need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel with nitrile rubber gaskets in the contaminated areas.

State Fire Marshal's Office – Contact: Duane Fox 856-5298

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

a. **Fire Protection Water Requirements:**

- Water distribution system capable of delivering at least 1500 gpm for 2-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.
- Where a water distribution system is proposed for warehousing sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

b. **Fire Protection Features:**

- All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
- Buildings greater than 10,000 sq.ft., 3-stories or more, over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Show Fire Lanes and Sign Detail as shown in DSFPR

c. **Accessibility**

- All premises, which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus.
- The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.
- The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.

d. **Gas Piping and System Information:**

- Provide type of fuel proposed, and show locations of bulk containers on plan.

e. **Required Notes:**

- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
- Proposed Use
- Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Note indicating if building is to be sprinklered
- Name of Water Provider
- Letter from Water Provider approving the system layout
- Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
- Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.statefiremarshal.delaware.gov, technical services link, plan review, applications or brochures.

Department of Agriculture - Contact: Scott Blaier 739-4811

The Delaware Department of Agriculture has no objections to the proposed project. The project is located within the City of Milford, and the *Strategies for State Policies and Spending* encourages environmentally responsible development in Investment Level 2 areas.

This site contains an area designated as having “excellent” ground-water recharge potential. DNREC has mapped all ground-water recharge-potential recharge areas for the state, and an “excellent” rating designates an area as having important groundwater recharge qualities.

Senate Bill 119, enacted by the 141st General Assembly in June of 2001, requires the counties and municipalities with over 2,000 people to adopt as part of the update and implementation of their 2007 comprehensive land use plans, areas delineating excellent ground-water recharge potential areas. Furthermore, the counties and municipalities are required to adopt regulations by December 31, 2007 governing land uses within those areas to preserve ground-water quality and quantity.

Maintaining pervious cover in excellent and good recharge areas is crucial for the overall environmental health of our state and extremely important to efforts which ensure a safe

drinking water supply for future generations. Retention of pervious cover to ensure an adequate future water supply is also important for the future viability of agriculture in the First State. The loss of every acre of land designated as “excellent” and “good” recharge areas adversely impacts the future prospects for agriculture in Delaware. The developer should make every effort to protect and maintain valuable ground-water recharge potential areas.

Right Tree for the Right Place

The Delaware Department of Agriculture Forest Service encourages the developer to use the “Right Tree for the Right Place” for any design considerations. This concept allows for the proper placement of trees to increase property values in upwards of 25% of appraised value and will reduce heating and cooling costs on average by 20 to 35 dollars per month. In addition, a landscape design that encompasses this approach will avoid future maintenance cost to the property owner and ensure a lasting forest resource.

To further support this concept the Delaware Forest Service does not recommend the planting of the following species due to the high risk of mortality from insects and disease:

Callery Pear
Leyland Cypress

Ash Trees
Red Oak (except for Willow Oak)

If you would like to learn more about the potential problems or impacts associated with these trees, please contact the Delaware Forest Service for more information at (302) 698-4500.

Native Landscapes

The Delaware Department of Agriculture and the Delaware Forest Service encourages the developer to use native trees and shrubs to buffer the property from the adjacent land-use activities near this site. A properly designed forested buffer can create wildlife habitat corridors and improve air quality to the area by removing six to eight tons of carbon dioxide annually and will clean our rivers and creeks of storm-water run-off pollutants. To learn more about acceptable native trees and how to avoid plants considered invasive to our local landscapes, please contact the Delaware Department of Agriculture Plant Industry Section at (302) 698-4500.

Public Service Commission - Contact: Andrea Maucher 739-4247

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

Department of Education – Contact: John Marinucci 735-4055

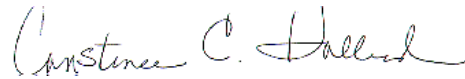
This proposed project is in the Milford School District. This parcel is in close proximity to the Milford High School. The DOE requests that the developer include the Milford School District in the coordinated regional planning effort.

This is a site plan review request with no apparent impact on educational service delivery or infrastructure and, as such DOE has no further comments regarding this request.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland".

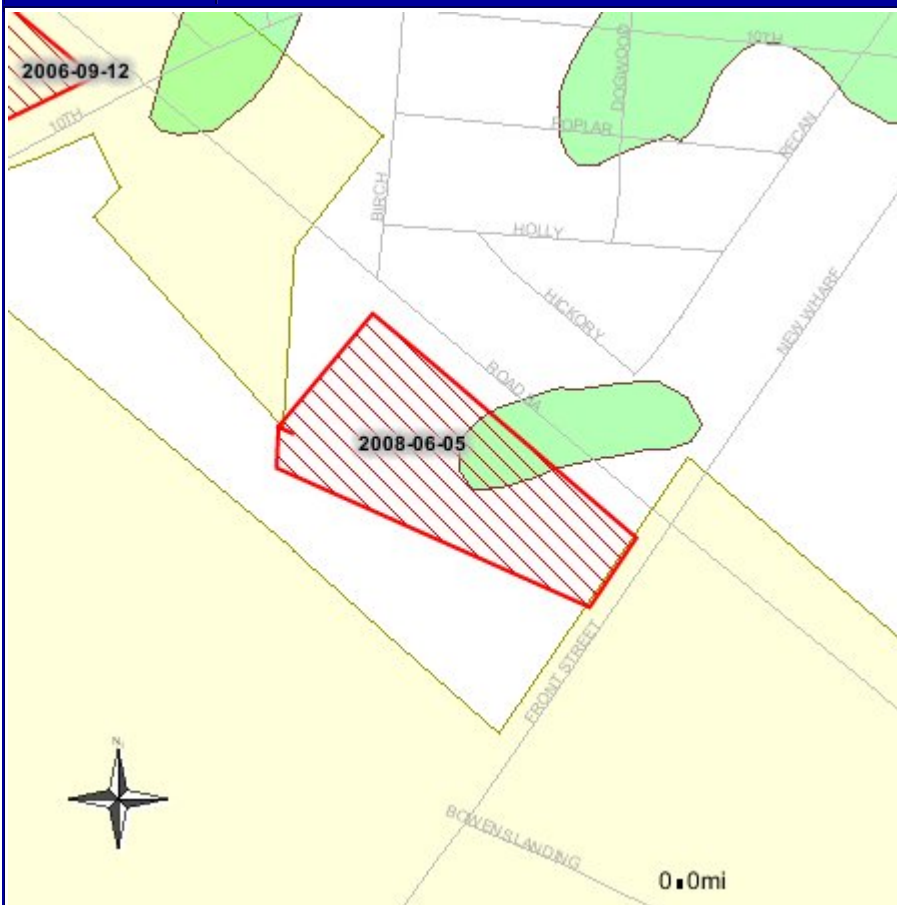
Constance C. Holland, AICP
Director

CC: City of Milford



NKS Distributing

2008-06-05



- PLUS Projects
- NHDFlowLine
- All Roads
- Excellent Recharge Areas
- Towns

This map was produced by the Delaware Department of Natural Resources and Environmental Control.

